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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re J.C., a Person Coming Under the  
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

J.C.,

Defendant and Appellant.

A142684

(Contra Costa County  
Super. Ct. No. J1000715)

After minor J.C. (appellant) violated the terms of his probation, the juvenile court removed him from his parent's home and ordered him detained for placement in an appropriate out-of-home facility. Appellant's sole claim on appeal is that the juvenile court failed to specify his maximum period of confinement or calculate credit for time served in precommitment custody. As we explain, the matter must be remanded to correct these errors.

Appellant was declared a ward of the court in 2010 after pleading no contest to charges of grand theft (Pen. Code, § 487, subd. (c)) and battery (Pen. Code, §§ 242, 243, subd. (a)).<sup>1</sup> He was placed on probation in the home of his maternal great-grandmother. In December 2011, appellant admitted a violation of his probation and was continued on

<sup>1</sup>The facts of the underlying offenses and probation violations are not relevant to the issues raised on appeal.

probation as a ward of the court. In early 2012, after appellant's great-grandmother died, the court ordered him to live with his father. In February 2012, April 2012, and again in June 2013, appellant admitted further violations of the terms of his probation. Following the June 2013 finding that appellant violated his probation, the juvenile court ordered him removed from his father's home and committed to a ranch facility for a six-month period followed by 90 days of parole. Appellant completed his ranch commitment and term of parole. In June 2014, appellant admitted a further probation violation. At the time, he was continued as a ward of the court, placed on home supervision for 45 days, ordered to spend three weekends in juvenile hall, and ordered to undergo a mental health assessment and follow physician's recommendations.

In July 2014, the probation department filed the notice of probation violation that gives rise to this appeal. It was alleged that appellant tested positive for marijuana and left school early without permission on July 17. Appellant admitted the allegations. At the dispositional hearing held on August 1, 2014, the court ordered appellant to continue as a ward of the court, removed him from his father's home, and placed him in the custody of the probation department for placement in an appropriate facility. He was ordered detained in juvenile hall pending transfer to an out-of-home placement. Appellant timely appealed the court's dispositional order.

On appeal, appellant contends the juvenile court erred by failing to specify his maximum confinement term or calculate his precommitment custody credit. The Attorney General concedes that the court erred and agrees the matter should be remanded to the juvenile court. The concession is well taken.

When a juvenile court removes a minor from parental custody as a result of an order of wardship, Welfare and Institutions Code section 726, subdivision (d) mandates that the court "must specify the maximum confinement term, i.e., the maximum term of imprisonment an adult would receive for the same offense." (*In re David H.* (2003) 106 Cal.App.4th 1131, 1133; see Welf. & Inst. Code, § 726, subd. (d)(1); Cal. Rules of Court, rule 5.795(b).) The juvenile court failed to comply with this mandate when it removed appellant from his father's home.

Furthermore, the court failed to calculate credit for precommitment time that appellant spent in secure physical confinement and subtract that credit from the maximum confinement calculation. “ ‘Because an adult would be entitled to presentence custody credit under Penal Code section 2900.5, this has been interpreted to mean that an equivalent amount of time must be subtracted from a minor’s maximum period of physical confinement. [Citations.] Inasmuch as a minor is not “sentenced,” it would simply be incorrect to refer to this as “presentence” custody credit. In the juvenile context, the correct term is “precommitment” [citation] or “predisposition” custody credit.’ ” (*In re J.M.* (2009) 170 Cal.App.4th 1253, 1256.) When calculating the maximum period of confinement, the court must subtract actual credits for all days served in juvenile hall and other secure, physical confinement. (*In re Lorenzo L.* (2008) 163 Cal.App.4th 1076, 1079.) The juvenile court may not delegate the duty to calculate precommitment custody credit. (*Ibid.*; *In re Emilio C.* (2004) 116 Cal.App.4th 1058, 1067.)

On remand, the juvenile court must specify appellant’s maximum period of confinement, calculate his precommitment custody credit, and prepare an amended order reflecting those calculations.<sup>2</sup> (See *In re Antwon R.* (2001) 87 Cal.App.4th 348, 353.) The juvenile court’s credit calculations should include credit for time that appellant earned prior to the dispositional hearing conducted on August 1, 2014, as well as credit for days he spent in juvenile hall after that dispositional hearing but before commitment to an out-of-home placement. (*In re J.M.*, *supra*, 170 Cal.App.4th at p. 1256.)

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<sup>2</sup>There is some indication in the record that appellant’s “maximum custody time” had previously been determined to be one year two months. However, the juvenile court did not specify the maximum period of confinement at the August 2014 dispositional hearing or calculate appellant’s credit for precommitment custody.

**DISPOSITION**

The matter is remanded to the juvenile court to specify a maximum period of confinement pursuant to rule 5.795(b) of the California Rules of Court and to calculate appellant's precommitment custody credit. In all other respects, the juvenile court's order is affirmed.

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McGuiness, P.J.

We concur:

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Siggins, J.

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Jenkins, J.